

Sunset Public Hearing Questions for
Tennessee Health Information Committee
Created by Section 56-2-125, *Tennessee Code Annotated*
(Sunset termination June 2017)

1. **Provide a brief introduction to the Tennessee Health Information committee, including information about its purpose, statutory duties, staff, and administrative attachment.**

TCA 56-2-125 calls for the establishment of a Tennessee health information committee to advise the Commissioner of Finance and Administration regarding matters related to the all payer claims database. The public release of any reports derived from the all payer claims database requires a two-thirds affirmative vote of the committee. The committee is chaired by the Commissioner of Finance and Administration or his or her designee and is attached to the Department of Finance and Administration for administrative purposes.

2. **Provide a list of current members of the committee. For each member please indicate who appointed the member, how the member's presence on the committee complies with Section 56-2-125(c)(7), *Tennessee Code Annotated*, and the member's county of principal residence. Are there any vacancies on the committee? If so, what is being done to fill those vacancies? Also, please indicate each member's race and gender and which members, if any, are 60 years of age or older.**

<i>Ex Officio</i> Committee Membership (TCA § 56-2-125(c)(7)(A))	Current Representative	Sex, Race, and Age Group*
(i) The commissioner [of commerce and insurance] or the commissioner's designee;	Julie McPeak, JD	Commissioner McPeak is female and under age 60.
(ii) The commissioner of health or the commissioner of health's designee;	John Dreyzehner, MD, MPH, FACOEM	Commissioner Dreyzehner is male and under age 60.
(iii) The commissioner of mental health and substance abuse services or the commissioner of mental health and substance abuse services' designee;	E. Douglas Varney	Commissioner Varney is male and is age 60 or older.
(iv) The commissioner of finance and administration or the commissioner of finance and administration's designee;	Larry Martin	Commissioner Martin is male and is age 60 or older.
(v) The director of the state division of health planning or equivalent;	Eric Harkness	Mr. Harkness is male and under age 60.

(vi) The director of the office of e-health initiatives or equivalent;	Hugh Hale	Mr. Hale is male and under age 60.
(vii) The deputy commissioner of the bureau of TennCare or the deputy commissioner of the bureau of TennCare's designee; and	Wendy Long, MD, MPH	Dr. Long is female and under age 60.
(viii) The commissioner of intellectual and developmental disabilities or the commissioner of intellectual and developmental disabilities' designee.	Debra Payne	Ms. Payne is female and is age 60 or older.

Appointed Committee Membership (TCA § 56-2-125(c)(7)(B))	Current Representative(s)	County, Sex, Race, and Age Group*
(i) Two (2) physician members. The Tennessee Medical Association is authorized to submit to the commissioner a list of nominees from which the physicians may be selected;	Landon Combs, MD	Dr. Combs is male, but we have no further demographic information for him.
	Troy Sybert, MD, MPH, Capella Healthcare	Dr. Sybert is male, but we have no further demographic information for him.
(ii) Two (2) members to represent hospitals. The Tennessee Hospital Association and the Hospital Alliance of Tennessee are authorized to submit to the commissioner a list of nominees from which the representatives may be selected;	Vicki Lake , Director, Business Development/ Planning, West Tennessee Healthcare	Ms. Lake is female, but we have no further demographic information for her.
	Mary Layne Van Cleave , Executive Vice President and Chief Operating Officer, Tennessee Hospital Association	Ms. Van Cleave is female, but we have no further demographic information for her.
(iii) One (1) pharmacist member. The Tennessee Pharmacists Association is authorized to submit to the commissioner a list of nominees from which the pharmacist may be selected;	Micah Cost, PharmD , Executive Director, Tennessee Pharmacists Association	Dr. Cost is male, but we have no further demographic information for him.
(iv) Two (2) members to represent the health insurance industry;	Bernie Inskeep , APCD Program Director, United Healthcare	Ms. Inskeep is female, but we have no further demographic information for her.
	David Stitzel , Compliance Director, Aetna	Mr. Stitzel is male, but we have no further demographic information for him.

(v) One (1) member to represent a hospital and medical service corporation;	Nick Coussoule , Senior Vice President and Chief Information & Strategic Technology Officer, BlueCross BlueShield of Tennessee	Mr. Coussoule is male, but we have no further demographic information for him.
(vi) One (1) member to represent a coalition of businesses who purchase health services;	Cristie Travis , Chief Executive Officer, Memphis Business Group on Health	Ms. Travis is female, but we have no further demographic information for her.
(vii) One (1) member to represent a self-insured employer;	Larry Van Horn, PhD, MBA, MA , Associate Professor of Management, Owen Graduate School of Management, Vanderbilt University	Dr. Van Horn is male, but we have no further demographic information for him.
(viii) One (1) member to represent health care consumers; and	Kathy Wood-Dobbins , Chief Executive Officer, Tennessee Primary Care Association	Ms. Wood-Dobbins is female, but we have no further demographic information for her.
(ix) One (1) member to represent ambulatory surgical treatment centers.	Michael Corey Ridgway , Divisional Vice President, Operations, United Surgical Partners International	Mr. Ridgway is male, but we have no further demographic information for him.

* We provide the demographic information we were able to verify and which we are permitted to disclose under state law.

3. How many times did the committee meet in fiscal years 2014 and 2015 and to date in fiscal year 2016? How many members were present at each meeting?

The committee did not meet in FY 2014 or 2015, and it has met once in FY 2016 on July 21, 2015.

4. Did the committee appoint any subcommittees as authorized at Section 56-2-125(c)(9), *Tennessee Code Annotated*? If so, please describe.

The committee currently has no formally-established subcommittees.

5. Is the committee subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public?

Yes, the committee is subject to the Open Meetings Act (found at Section 89-44-101 *et seq.*) because there is no express statutory exemption from the Open Meetings Act that would apply to the committee. Therefore, the committee meetings will be noticed publicly, will be open to the public, and minutes will be recorded and made available to the public upon request. However, as question 12 below points out, TCA 56-2-125(d)(2) specifically designates the database itself and any other information related to or derived

from the database as confidential, not a public record, and not open for public inspection. Therefore, it is contemplated that any review, discussion, and/or approval of any information that is designated by the statute as confidential will take place in an executive session and will not be open to the public.

Advance notice of the committee meetings that is reasonable and adequate based on the circumstances will be published at <https://www.tn.gov/hcfa/article/tennessee-health-information-committee> (or similar domain address attached to the Division of Health Care Finance and Administration's website). The meeting minutes will also be posted on that website. The notice for any meeting in which confidential information will be discussed will include notice of executive session, and any meeting minutes from a meeting in which the Committee goes into executive session to discuss confidential information will notate such executive session.

- 6. What were the committee's revenues (by source) and expenditures (by object) for fiscal years 2014 and 2015 and to date in fiscal year 2016? Does the committee carry a fund balance and, if so, what is the total of that fund balance?**

Not applicable.

- 7. How does the committee ensure that its members and staff are operating in an impartial manner and that there are no conflicts of interest?**

The committee formally adopted a conflict of interest policy on July 21, 2015, and all committee members have individually signed a conflict of interest statement.

- 8. What per diem or travel reimbursement do committee members receive? How much was paid to committee members during fiscal years 2014 and 2015 and to date in fiscal year 2016?**

Not applicable. *See* TCA 56-2-125(c)(6) (stating that, "The committee members shall serve without compensation and travel expenses.").

- 9. What were the committee's major accomplishments during fiscal years 2014 and 2015 and to date in fiscal year 2016? Specifically, how has the committee addressed the duties set out for the committee in Sections 56-2-125(c)(1) through (5), *Tennessee Code Annotated*?**

At its July 21, 2015, the committee:

- Adopted the Conflicts of Interest policy presented at the meeting;
- Formally rescinded all prior Memoranda of Understanding entered into for the purpose of obtaining information from the all payer claims database;
- Adopted the template Memorandum of Understanding presented to the committee at the meeting;
- Adopted the Memorandum of Understanding policy presented to the committee at the meeting; and
- Instructed staff from the Division of Health Care Finance and Administration to review opportunities to secure a contractor that would enable further use of all

payer claims database by the Commissioner of Finance and Administration to accomplish the purposes set forth in the authorizing statute.

Subsequent to the committee's meeting on July 21, 2015, staff from the Division of Health Care Finance and Administration have:

- Secured signed copies of a conflict of interest statement from all committee members;
- Surveyed available options from commercial contractors to make the data more usable by the Commissioner of Finance and Administration to accomplish the purposes set forth in the statute;
- Conducted follow-up conversations with committee members on an as-needed basis to delve more deeply into topics discussed at the committee meeting;
- Reviewed the Supreme Court's ruling in the *Gobielle v. Liberty Mutual Insurance Company* case and has ongoing dialogue with staff from the Department of Commerce and Insurance to ascertain the appropriate next steps with the APCD in the wake of this ruling; and
- Worked with the General Assembly on legislation aimed at modifying the usage of the all payer claims database during the 2016 legislative session.

10. What actions has the committee taken to safeguard individually identifiable health information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPPA)?

All claims in the all payer claims database are de-identified.

11. Have rules been promulgated as authorized at Section 56-2-125(h), *Tennessee Code Annotated*? If so, please cite the reference. What role did the committee take in promulgating these rules?

Yes, the Department of Commerce and Insurance promulgated rules at 0780-01-79. The committee was involved in the development of the rules.

12. Section 56-2-125(d)(2)(A), *Tennessee Code Annotated*, provides that essentially all information contained within the database (described as “the all payer claims database, summaries, source or draft information used to construct or populate the all payer claims database, patient level claims data, reports derived from the all payer claims database...”)) is not to be considered a public record and open to the public but creates a means of releasing reports “authorized by the Tennessee Health Information Committee.” Have any such reports been released?

No.

13. Describe any items related to the committee that require legislative attention and your proposed legislative changes.

Our review of the Supreme Court's recent ruling in *Gobielle v. Liberty Mutual Insurance Company* is ongoing. For this reason, we are unable to provide a more substantive response at this time.

14. Should the committee be continued? To what extent and in what ways would the absence of the committee affect the public health, safety, or welfare?

Per TCA 56-2-125, public release of any reported derived from the all payer claims database requires a two-thirds affirmative vote of the committee. Given the all payer claims database is now in the process of gathering such data, the continuance of the committee is necessary in order for any public reporting to take place.

15. Has the committee developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the committee has developed and implemented quantitative performance measures, answer questions 16 through 23. If the committee has not developed quantitative performance measures, proceed directly to question 24.

No, the committee has not developed quantitative performance measures.

16. What are your key performance measures for ensuring the committee is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

Not applicable.

17. What aspect[s] of the program are you measuring?

Not applicable.

18. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

Not applicable.

19. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

Not applicable.

20. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

Not applicable.

21. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

Not applicable.

22. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

Not applicable.

23. Describe any concerns about the committee's performance measures and any changes or improvements you think need to be made in the process.

Not applicable.

24. Please list all committee or database project programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

No federal financial assistance is received.

If the committee or database project does receive federal assistance, please answer questions 25 through 32. If the committee or database project does not receive federal assistance, proceed directly to question 31.

25. Does your committee or database project prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

Not applicable.

26. Does your committee or database project have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

Not applicable.

27. To which state or federal agency (if any) does your committee or database project report concerning Title VI? Please describe the information your committee or database project submits to the state or federal government and/or provide a copy of the most recent report submitted.

Not applicable.

28. Describe your committee or database project's actions to ensure that committee or database project staff and clients/program participants understand the requirements of Title VI.

Not applicable.

- 29. Describe your committee or database project's actions to ensure it is meeting Title VI requirements. Specifically, describe any committee or database project monitoring or tracking activities related to Title VI, and how frequently these activities occur.**

Not applicable.

- 30. Please describe the committee or database project's procedures for handling Title VI complaints. Has your committee or database project received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).**

Not applicable.

- 31. Please provide a breakdown of current committee or database project staff by title, ethnicity, and gender.**

With respect to current committee members, please see responses to question 2 above. Regarding dedicated staff working on the all payer claims database:

- William Cisco, Project Manager, is a white male.
- Mae Brock, Business Analyst, is a female of Pacific Asian heritage.
- Rajesh Kannan, Database Analyst, is a male of South Asian heritage.

- 32. Please list all committee or database project contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.**

Truven Health Analytics, Inc., a subsidiary of IBM, won the July 2013 procurement and currently holds the contract for managing the all payer claims database. The work is oriented around the requirements found at TCA 56-2-125. The services noted in the proposal consist of: (a) annual registration of insurance carriers; (b) collection and processing of insurance carrier data; (c) data conversion and testing activities; and (d) project management, operations, and security activities associated with the data collected for the all payer claims database project. For reference, the contract is available in full at <http://www.tn.gov/assets/entities/hcfa/attachments/TruvenHealthAnalytics.pdf>. The amount of the contract is \$2.94 million for a three (3) year period, starting on November 1, 2013 proceeding through October 31, 2016. The contract may be extended in one year increments for a total contract period not to exceed 5 years. Given the nature of the corporation, no ethnicity data for owners are available.